

## VESTING TENTATIVE MAP

**FILE NO.** T18-045

**LOCATION OF PROPERTY** South side of Glen Eyrie Avenue,  
approximately 570 feet westerly of  
Lincoln Avenue (80 Glen Eyrie Avenue).

**ZONING DISTRICT** R-M Multiple Residence Zoning District

**PURPOSE OF MAP** A Vesting Tentative Map to merge two  
(2) lots into one lot for up to 18  
residential condominium units on an  
approximately 0.85-gross acre site.

**TITLE OF MAP** One lot subdivision for condominium  
purposes, lot merger, 18 condominium  
units on a lot, Vesting Tentative Map for  
Condominium Purposes

**DRAWN BY** BKF

**DATE OF MAP** December 18, 2019

**ENVIRONMENTAL STATUS** Exempt pursuant to CEQA Guidelines  
Section 15332 for In-Fill Exemption  
Projects

**OWNER/ADDRESS** Dan Askari  
221 Main Street, #1443  
Los Altos, CA 94022

**ENGINEER/ADDRESS** BKF  
1730 North 1<sup>st</sup> Street  
San José, CA 95112

### FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. **Project Description.** This is a Vesting Tentative Map to merge two (2) lots into one common lot and up to 18 residential condominium units on an approximately 0.85-gross acre site.
2. **Site Description and Surrounding Uses.** The subject site is located on the South side of Glen Eyrie Avenue, approximately 570 feet westerly of Lincoln Avenue (80 Glen Eyrie Avenue). The site is bounded by multi-family residential apartment to the north and east, to the south there are multi-family residential apartments and a single family residence, and to the west there is a single-family residence.

3. **General Plan Conformance.** The Envision San José 2040 General Plan Land Use/Transportation Diagram designation for the subject site is Mixed Use Neighborhood (MUN). The allowed density is Density: Up to 30 DU/AC (1 to 3.5 stories).

This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. Existing neighborhoods with this designation are typically characterized by a prevalence of atypical lot sizes or shapes and a parcel-by-parcel development pattern where small townhouse development may exist adjacent to more traditional single-family development or more intense multifamily development.

This designation should be used to establish new neighborhoods with a cohesive urban form, to provide transition between higher-density and lower-density neighborhoods, or to facilitate new infill development within an existing area that does not have an established cohesive urban character.

Because, within such mixed neighborhoods, the established overall neighborhood density and character is more intense than that found in typical single-family detached neighborhoods, it is appropriate to allow for infill development in Mixed Use Neighborhood areas that includes medium density residential uses such as townhouses or stacked flats and some opportunity for live/work, residential/commercial, or small stand-alone commercial uses.

- a. IP-1.1 Use the Envision General Plan Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
- b. IP-1.3 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram. Because the Diagram designation identifies the City's long-term planned implementation land use for a property.

*Analysis: The proposed project is approximately 21.2 dwelling units per acre and is proposing single-family attached units. The site is surrounded with a mix of multi-family developments that is a mix of one and two-story buildings.*

4. **Zoning Conformance.** The project conforms in all respects to the provisions of Title 20 of the San José Municipal Code, including the development standards of the R-M Multiple Residence Zoning District. 18 multi-family residential condominium units are a permitted use in the R-M Multiple Residence Zoning District and the 0.85-gross acre site conforms to the minimum lot size requirement of 6,000 square feet or 0.13 acres in the R-M Multiple Residence Zoning District.

## FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Subdivision Map Act Findings.** In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Tentative Map with the imposed conditions, shall deny approval of a tentative map, if it makes any of the following findings:
  - a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
  - b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
  - c. That the site is not physically suitable for the type of development.
  - d. That the site is not physically suitable for the proposed density of development.
  - e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
  - f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
  - g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Analysis: The proposed map provides the text and diagrams as required in Section 65451 of the Government Code of the State of California and is consistent with the Envision San José 2040 General Plan. The site is physically suitable for the proposed infill residential development to conform with all of the required setbacks, building height regulations, site and building design guidelines, parking requirements, and sufficient egress and ingress access.*

*Based on review of the proposed subdivision to consolidate two lots into one lot and up 18 residential condominium units, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies, and land use designation. The project complies with the General Plan goals and policies related to Major Strategies, design, and Growth Areas, among others. The General Plan land use designation of Mixed Use Neighborhood (MUN) allows for medium-density residential projects. The project site is physically suitable for the project and proposed density in that the development intensity is encouraged and envisioned within the General Plan.*

*Pursuant to the Public Works memo dated 4/13/20, the site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.*

*Furthermore, pursuant to the Department of Parks and Recreation Primary Record dated 11/30/2019, the subject property is not significant to the history or heritage of San Jose and does not meet the criteria for Candidate City Landmark of the California Register of Historic Resources. Additionally, there is a salvage condition in the permit below. The project site does not contain sensitive habitats or wildlife. The project site, as well as the surrounding area, are presently developed with structures and do not provide a natural habitat for either*

*fish or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems.*

- 2. Subdivision Ordinance Findings.** In accordance with San Jose Municipal Code (SJMC) section 19.12.130, the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220.

Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

*Analysis: Based on review of the proposed subdivision, the Director of Planning, Building, and Code Enforcement of the City of San José does not make any such findings to deny the subject subdivision and has determined the subdivision's environmental review under CEQA to be adequate.*

- 3. Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Pursuant to Section 15303(b) for New Construction of the California Environmental Quality Act (CEQA), the proposed project includes the development of 18 attached residential condominiums units, in an urbanized area, and is therefore exempt under this section. The noise is limited to the construction period of the project and during the posted construction hours between 7:00 a.m. and 7:00 p.m., Monday to Friday. The project will not cause any negative effect due to storm water runoff, drainage and erosion controls pursuant to the Final Memo issued by the Department of Public Works, dated 4/13/20.*

*As identified in the Department of Parks and Recreation Primary Record dated 11/30/2019, the subject property is not significant to the history or heritage of San Jose and does not meet the criteria for Candidate City Landmark of the California Register of Historic Resources. Additionally, there is a salvage condition in the permit below.*

*Pursuant to the Traffic Memo dated 4/13/20, the project will meet the vehicle parking requirement and a determination for a negative declaration can be made with respect to transportation impacts.*

In accordance with the findings set forth above, a Tentative Map for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Tentative Map except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
  - a. Acceptance of the Permit by the permittee; and
  - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Expiration of Permit.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the Director of Planning of the City of San Jose. The date of issuance is the date this Permit is approved by the Director of Planning.
3. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
4. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
5. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
6. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
7. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

8. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
9. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
10. **Affordable Housing Impact Fee** The development may be subject to the Affordable Housing Impact Fee (AHIF) or subject to the Inclusionary Housing Ordinance (IHO).

If the development is a rental project, the permittee must pay the Affordable Housing Impact Fee prior to the issuance of any building permits, unless an exemption claim has been made and conditionally accepted. Rental developments are developments that do not include the filing of a tentative map, parcel map or other plan intended to allow the separate conveyance of individual residential units or interests.

- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the AHIF.
- b. If a development qualifies for a conditional exemption to the AHIF in the approved Plan, the permittee and owner must execute and record an Affordable Housing Agreement with the City prior to the issuance of any building permits.
- c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
- d. No building permit may be issued until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.

If the development is a for-sale project, the permittee must comply with the requirements under IHO.

- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the IHO.
- b. If a development requests an IHO exemption in the Plan, the conditions of that exemption shall be complied with through the issuance of the certificate of occupancy.
- c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
- d. No building permit may be issued until evidence of compliance with the IHO and exemption process. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.

11. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the

following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services/public-works-applications>

- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- b. **Transportation:** A Local Transportation Analysis (LTA) has been performed for the subject project based on a net 7 a.m. and 7 p.m. peak hour trips. See separate Traffic Memo dated 4/13/20 for additional information. The following conditions shall be implemented:
  - i. Construct two (2) 20-foot driveways along the project frontage. The City standards require the minimum one-way driveway width to be 16 feet.
  - ii. Install red curbs immediately adjacent to the proposed driveways.

## 12. Grading/Geology:

- a. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- b. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.

## 13. Stormwater Runoff Pollution Control Measures:

This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- a. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- b. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

14. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
15. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
16. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
17. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
18. **Street Improvements:**
  - a. Construct 10' wide detached sidewalk with street trees in the 4' wide park strip along Glen Eyrie project frontage.
  - b. Construct new City Standard curb and gutter along Glen Eyrie project frontage.
  - c. Close all unused driveway cut(s).
  - d. Construct two (2) 20' wide City Standard driveways along Glen Eyrie Avenue project frontage.
  - e. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - f. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
  - g. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
  - h. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - i. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
19. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
20. **Street Trees:**
  - a. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects".

Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

- b. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
21. **Private Streets:** Per Common Interest Development (CID) Ordinance, the private drive aisle infrastructure improvements shall be designed and constructed in accordance with current CID standards. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Site Development Permit File No. H18-047 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Site Development Permit for such lands automatically expires or for any reason ceases to be operative.
  22. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. H18-047, has expired and all appeals have been exhausted.
  23. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
    - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area, and sewer treatment plan.
    - b. All public streets on which each Final Map has frontage are improved or bonded to be improved to the satisfaction of the Director of Public Works.
    - c. All grading, drainage and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels, which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
    - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation

**APPROVED** and issued on this 27<sup>th</sup> day of May, 2020.

Rosalyn Hughey, Director  
Planning, Building, and Code Enforcement

Deputy